

Court File No.: CV-12-9667-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE**

COMMERCIAL LIST

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C.
1985, c. C-36, AS AMENDED, AND IN THE MATTER OF A PLAN OF COMPRISE OR
ARRANGEMENT OF SINO-FOREST CORPORATION**

Court File No.: CV-11-431153-00CP

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N :

**THE TRUSTEES OF THE LABOURERS' PENSION FUND OF CENTRAL AND
EASTERN CANADA, THE TRUSTEES OF THE INTERNATIONAL UNION OF
OPERATING ENGINEERS LOCAL 793 PENSION PLAN FOR OPERATING
ENGINEERS IN ONTARIO, SJUNDE AP-FONDEN, DAVID GRANT
and ROBERT WONG**

Plaintiffs

- and -

**SINO-FOREST CORPORATION, ERNST & YOUNG LLP, BDO LIMITED (formerly
known as BDO MCCABE LO LIMITED), ALLEN T.Y. CHAN, W. JUDSON MARTIN,
KAI KIT POON, DAVID J. HORSLEY, WILLIAM E. ARDELL, JAMES P. BOWLAND,
JAMES M.E. HYDE, EDMUND MAK, SIMON MURRAY, PETER WANG, GARRY J.
WEST, PÖYRY (BEIJING) CONSULTING COMPANY LIMITED, CREDIT SUISSE
SECURITIES (CANADA), INC., TD SECURITIES INC., DUNDEE SECURITIES
CORPORATION, RBC DOMINION SECURITIES INC., SCOTIA CAPITAL INC., CIBC
WORLD MARKETS INC., MERRILL LYNCH CANADA INC., CANACCORD
FINANCIAL LTD., MAISON PLACEMENTS CANADA INC., CREDIT SUISSE
SECURITIES (USA) LLC and MERRILL LYNCH, PIERCE, FENNER & SMITH
INCORPORATED (successor by merger to Banc of America Securities LLC)**

Defendants

Proceeding under the *Class Proceedings Act*, 1992

**NOTICE OF MOTION
(Settlement Approval – Horsley Settlement)**

TAKE NOTICE that the Ad Hoc Committee of Purchasers of the Applicant's Securities, including the plaintiffs in the action commenced against Sino-Forest Corporation ("Sino-Forest" or the "Applicant") in the Ontario Superior Court of Justice, bearing (Toronto) Court File No. CV-11-431153-00CP (the "Ontario Plaintiffs" and the "Ontario Class Action", respectively) in their own and proposed representative capacities, will make a motion to the Honourable Justice Morawetz on July 24, 2014, at 9:00 a.m., or at such other time and place as the Court may direct, at 330 University Avenue, 8th Floor, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion will be heard orally.

THE MOTION IS FOR an Order:

1. in the form attached hereto as Schedule "A" to this Notice of Motion (the "Horsley Settlement Order")¹:
 - (a) if necessary, validating and abridging the time for service and filing of this motion and motion record, and dispensing with any further service thereof;
 - (b) appointing the Ontario Plaintiffs as representatives on behalf of the Securities Claimants;
 - (c) declaring that the Horsley Settlement is fair and reasonable in all the circumstances and for the purposes of both proceedings;
 - (d) approving the Horsley Settlement and the Horsley Release for all purposes and implementing them in accordance with their terms;

¹ Unless otherwise defined or the context requires otherwise, all capitalized terms in this affidavit have the meanings attributed to them in the Horsley Settlement Order.

- (e) requesting the recognition of the courts and other bodies in Canada or the United States to give effect to the order; and
2. Such further and other relief as counsel may advise and this Honourable Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1. On July 20, 2011, the Ontario Plaintiffs commenced the Ontario Class Action against Sino-Forest, Horsley and other defendants;
2. Guining Liu brought a similar class proceeding against Sino-Forest, Horsley and other defendants in Quebec (the “Quebec Action”);
3. David Leopard and others have brought a proceeding in the United States New York Southern District Court against Sino-Forest, Horsley and other defendants (the “US Action”). The plaintiffs in the Ontario Class Action, Quebec Action and US Action, are referred to collectively as the “Class Action Plaintiffs”;
4. The Ontario Plaintiffs allege that the defendants, including Horsley, made misrepresentations in Sino-Forest’s public filings, including its financial statements and offering documents;
5. Horsley denies these allegations;
6. On March 30, 2012, Sino-Forest filed for protection from its creditors pursuant to the *Companies’ Creditors Arrangement Act* (the “CCAA”);

7. This Honourable Court approved the Plan containing the framework and providing for the implementation of a Named Third Party Defendant Settlement and a Named Third Party Defendant Release pursuant to section 11.2 of the Plan;
8. The Class Action Plaintiffs, Horsley and the Litigation Trust have reached an agreement and subsequently entered into Minutes of Settlement in order to resolve claims against Horsley relating to Sino-Forest, its affiliates and subsidiaries;
9. The Horsley Settlement provides that Horsley's insurers shall pay \$4.2 million (the "Class Settlement Fund") in exchange for, among other things, a comprehensive release of claims against Horsley in respect of Sino-Forest;
10. The Horsley Settlement provides that following the Effective Date, Horsley shall not seek reimbursement from Sino-Forest's Directors & Officers liability insurers for legal fees or disbursements, save and except for legal fees relating to charges that may be laid against him by the Royal Canadian Mounted Police in relation to Sino-Forest;
11. The Ontario Plaintiffs and Horsley wish to effect the Horsley Settlement pursuant to section 11.2 of the Plan;
12. Enforcement Staff of the Ontario Securities Commission ("OSC") have commenced proceedings against Horsley regarding his conduct and involvement with Sino-Forest, including allegations made against Horsley in its Notice of Hearing and Statement of Allegations (the "OSC Proceedings");
13. Any settlement agreement between the Ontario Plaintiffs and Horsley is conditional upon approval by the OSC of a settlement of the OSC Proceedings between Horsley and OSC

Enforcement Staff, including, among other things, a permanent ban on Horsley from acting as a director or officer of a public issuer of securities;

14. The Horsley Settlement is fair, reasonable and in the best interests of Securities Claimants, particularly in light of the inherent risks, costs and delay associated with continued litigation;
15. The Horsley Settlement is fair and reasonable in all of the circumstances of the CCAA Proceedings;
16. The Class Action Plaintiffs support the approval of the Horsley Settlement;
17. The *Class Proceedings Act, 1992*, SO 1992 c 6;
18. the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36;
19. The *Rules of Civil Procedure*, RRO 1990, Reg 194; and
20. Such further and other grounds as counsel may advise and this Honourable Court will permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The affidavit of Charles M. Wright, sworn July 4, 2014; and
2. Such further and other evidence as counsel may advise and this Honourable Court may deem just.

July 4, 2014

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Applicant's Securities, including the Class Action Plaintiffs

TO: SERVICE LIST